

REMARKS

Claims 1-25 are pending. Claims 7-12 and 18-22 are withdrawn.

I. Priority

Applicants respectfully submit that support for the elected species, ethyl (2S)-2-(((1S)-2-((2S)-2-(((1S,2S,5S,6R)-6-(nitrooxy)-4,8-dioxabicyclo(3.3.0)oct-2-yl)oxycarbonyl)pyrrolidinyl-1-methyl-2-oxoethyl)amino)-4-phenylbutanoate, can be found in the priority documents as follows:

60/530,643 (12/19/2003): page 29, lines 1-4; pp. 55-56

60/498,291 (8/28/2003): page 27, lines 6-9

60/496,810 (8/21/2003): page 25, lines 12-15

60/496,722 (8/20/2003): page 25, lines 11-14.

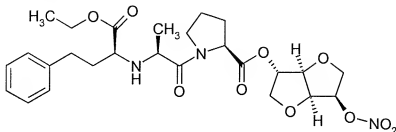
II. Claim Rejections under 35 USC §112

Claims 1-6, 13-17, and 23-25 are rejected under 35 USC 112, second paragraph, for allegedly failing to set forth the subject matter which Applicants regard as their invention. Applicants respectfully traverse this rejection.

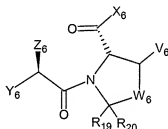
The examiner asserts that evidence that claim 1 fails to correspond in scope with that which Applicants regard as their invention can be found in the reply filed 5/23/07, because the structure shown for the elected species does not correspond to any of the disclosed genuses.

Applicants respectfully submit that the structure of the elected species submitted in the reply of 5/23/07 is clearly a typographical error. In that reply, Applicants stated: "Applicants elect the following species compound, with traverse: the compound of Example 1, ethyl (2S)-2-(((1S)-2-((2S)-2-(((1S,2S,5S,6R)-6-(nitrooxy)-4,8-dioxabicyclo(3.3.0)oct-2-yl)oxycarbonyl)pyrrolidinyl-1-methyl-2-oxoethyl)amino)-4-phenylbutanoate." As shown in the specification at page 96, the structure for the compound of Example 1 is the following:

- 1c. Ethyl (2S)-2-(((1S)-2-((2S)-2-(((1S,2S,5S,6R)-6-(nitrooxy)-4,8-dioxabicyclo(3.3.0)oct-2-yl)oxycarbonyl)pyrrolidinyl)-1-methyl-2-oxoethyl)amino)-4-phenylbutanoate

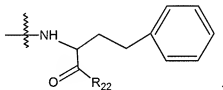


The elected species compound corresponds to a compound of Formula (III):



The variable groups in the compound of Formula (III) read on the species as follows:

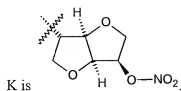
X₆ is (1) -U₃D₁;
 Y₆ is (4)



W₆ is (1)



V₆ is a hydrogen;
 Z₆ is (2) methyl;
 R₁₉ and R₂₀ are a hydrogen;
 R₂₂ is -OCH₂-CH₃;
 U₃ is an oxygen;
 D₁ is K;



Claims 1-5, 13-17, and 23-25 read on the elected species.

Applicants respectfully submit that the structure shown for the elected species in the reply of 5/23/07 is clearly a typographical error because it corresponds neither to the named compound in Applicants' reply nor to the structure shown in the specification for Example 1.

In view of the above, Applicants respectfully submit that claims 1-6, 13-17, and 23-25 satisfy the requirements of 35 USC 112, second paragraph. Withdrawal of this rejection is respectfully requested.

III. Double Patenting

Claims 1-6, 13-17, and 23-25 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 14, 15, 27-37, and 50-52 from copending Application No. 11/730,886, claims 1, 2, and 4-10 from copending Application No. 11/705,773, and claims 54-58, 68-70, 79-90, and 99-102 of copending Application No. 11/689,568, and several others that share inventors and assignee.

Applicants respectfully submit that co-pending U.S. Application Nos. 11/730,886, 11/705,773, and 11/689,568 have not yet been examined by the USPTO and respectfully request that the Examiner hold this provisional obviousness-type double patenting rejection in abeyance pending a finding of allowable subject matter in these co-pending applications.

IV. Conclusion

In view of the above remarks, Applicants believe the pending application is in condition for allowance.

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-0219, under Order No. 0102258.00172US5 from which the undersigned is authorized to draw.

Respectfully submitted,

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